IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 20551 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SOMABHAI MANGALBHAI KHANT - Petitioner(s)
Versus
STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :
MR UM SHASTRI for Petitioner(s) : 1,
MR DA DESAI, AGP for Respondent(s) : 1,
None for Respondent(s) : 2 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 11/10/2005

ORAL JUDGMENT

1. Rule. Shri Dipan Desai, learned AGP is directed to accept notice of rule on behalf of the respondents. With consent of parties, the matter is taken up for final hearing today.
2. The petitioners have preferred the present petition

under Article 226 of the Constitution of India for appropriate writ, direction and order directing the respondents to regularize the possession of the forest land of Survey No.116 paiki situated at village Kuvazer – Vejma, Tal: Morva (H), Dist: Panchmahals and also for appropriate order or direction directing the respondents to consider the representation of the petitioners as per Government Circular dated 6-10-1992 and further direct the respondents to provide alternative site and also to ensure of livelihood in case if he is disturbed.

3. Mr. Shashtri, learned advocate appearing on behalf of the petitioners, relies upon several orders passed in similar matters by this Court in Special Civil Application Nos.2227 of 2001, 7085 of 2002, 8486 of 1999 and 10539 of 1998 in which this court has directed the respondents to consider the representation made by the petitioner pending before them.

4. Shri Dipan Desai, learned AGP does not have any objection if the respondents are directed accordingly. At this stage, Mr. Shashtri states that though the petitioners have already made representation, however, they would like to make a fresh representation with some further material.

5. Under the circumstances, considering the orders passed by this court in similar matters, the following direction is issued:-

“The petitioners will make a representation / application to the concerned Collector for the purpose of granting benefit in accordance with the policy of the State Government within a period of 15 (fifteen) days from today. As and when such representation/application is made, the same shall

be decided in accordance with law after hearing the petitioner. The concerned authority will consider and decide the same as aforesaid within a period of 02(two) months from the date of the receipt of such representation/application. Until such decision is taken and communicated to the petitioners, status quo as on today with regard to possession will be maintained, only if the same is not in breach of provision of Forest Act as well as Wild Life Protection Act."

6. Subject to aforesaid observations and directions, this petitions is disposed of. Rule is made absolute to the aforesaid extent. There shall be no order as to costs. Direct Service is permitted.

(M.R. SHAH, J.)

Shekhar/-